

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
STATESVILLE DIVISION
CIVIL CASE NO. 5:23-cv-00136-MR**

TYRONE D. GLADDEN,

Plaintiff,

vs.

JOSHUA T. QUINN, et al.,

Defendants.

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ORDER

THIS MATTER is before the Court on Defendants Joshua T. Quinn, Darren C. Daves, Joshua Sigmon, and Timothy Metcalf's¹ Motion to Deem Answer Timely Filed [Doc. 29].

This civil rights action was filed by the incarcerated Plaintiff pursuant to 42 U.S.C. § 1983. The Amended Complaint passed initial review against the Defendants for retaliation. [See Docs. 13, 14]. The Defendants waived service, making their answers due on May 14, 2024; that time was later extended to July 15, 2024. [Doc. 21; June 14, 2024 Text-Only Order]. On July 19, 2024, the Court ordered the Plaintiff to take further action after that deadline expired. [July 19, 2024 Text-Only Order]. The Defendants filed an

¹ The Clerk will be instructed to update the Court's record with Defendant Metcalf's full name.

Answer and the instant Motion on July 24, 2024. [Docs. 28, 29]. The Defendants explain that the late Answer was due to a miscommunication between NCDOJ and new defense counsel, as well as information technology difficulties related to the transfer of files. [Doc. 29]. The Plaintiff has not responded, and the time to do so has expired.

A court may extend the time when an act may or must be done, for good cause, on a motion made after the time has expired if the party failed to act because of excusable neglect. Fed. R. Civ. P. 6(b)(1)(B). Excusable neglect requires consideration of equitable factors such as “danger of prejudice ... the length of delay and its potential impact on the judicial proceedings, the reason for the delay, including whether it was in the control of the movant, and whether the movant acted in good faith.” Pioneer Inv. Serv. Co. v. Brunswick Assoc., 507 U.S. 380, 395 (1993).

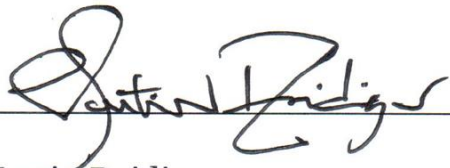
The Motion will be granted for good cause shown. Counsel has shown that the brief delay in filing the Answer was due to an administrative oversight that was promptly corrected, and that such will not overly impact these proceedings or the administration of justice. Accordingly, the Motion will be granted, and the Defendants’ Answer [Doc. 28] will be accepted as timely filed.

IT IS, THEREFORE, ORDERED that the Defendants' Motion to Deem Answer Timely Filed [Doc. 29] is **GRANTED**, and the Defendants' Answer [Doc. 28] is accepted as timely filed.

The Clerk of Court is respectfully instructed to replace "FNU Metcalf" with Timothy Metcalf in the Court's record.

IT IS SO ORDERED.

Signed: August 26, 2024



Martin Reidinger
Chief United States District Judge

